REMARKS

Claims 1-18, 55-73 and 90-114 were pending in the application. Claims 14 and 96 were amended. Accordingly, claims 1-18, 55-73 and 90-114 remain pending in the present application.

Claims 8, 18, 62, 72 and 110 are objected as being dependent upon a rejected base claim but would allowable if rewritten in independent from including all the imitations of the base claim and any intervening claims. The Applicant has not, at this juncture, rewritten claims 8, 18, 62, 72 and 110 into independent form.

Claims 14-16 stand rejected under 35 U.S.C. §112, 2nd paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Applicant submits that the use of "a buffer" in claim 14 is clear and definite. Specifically, claim 11 recites "a read buffer" which is clearly a different buffer. However, Applicant has amended claim 14 to read " a request buffer" for additional clarity. The Applicant also submits that the addition of the word request does not change the scope of the claim.

Claim 96 was amended to correct typographic errors.

Claims 1-2, 4-5, 9-12, 14-15, 55-56, 58-59, 63-66, 68-69, 73, 90-93, 95, 100, 102-104, 106-107 and 111-114 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Powell Jr., et al. (U.S. Patent Number 5,896,516) (hereinafter 'Powell Jr.') in view of Foster et al. (U.S. Patent Number 6,038,630) (Hereinafter 'Foster') and in further view of judicial notice and MPEP §2144.04 on the plurality of elements. The Applicant respectfully traverses this rejection.

Claims 3, 13, 57, 67, 94 and 105 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Powell Jr. in view of Foster, in further view of judicial notice and

MPEP §2144.04 and in further view of Berglund et al. (U.S. Patent Number 4,258,417) (hereinafter 'Berglund'). The Applicant respectfully traverses this rejection.

Claims 6, 16, 60, 70, and 108 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Powell Jr. in view of Foster, in further view of judicial notice and MPEP §2144.04 and in further view of Bitner et al. (U.S. Patent Number 5,210,829) (hereinafter 'Bitner'). The Applicant respectfully traverses this rejection.

Claims 7, 17, 61, 71, 95, 96-100 and 109 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Powell Jr. in view of Foster, in further view of judicial notice and MPEP §2144.04 and in further view of Schlotterer et al. (U.S. Patent Number 4,130,864) (hereinafter 'Schlotterer'). The Applicant respectfully traverses this rejection.

The Examiner has acknowledged that Powell Jr. does not disclose a plurality of input sorting units, nor a plurality of merge and interleave units as recited in Applicant's claim 1. The Examiner has further acknowledged that Powell Jr. does not disclose that the designated device is a memory device as recited in claim 1. The Examiner has, however, asserted that Foster teaches that the designated device is a memory device. The Examiner is also relying on MPEP §2144.04 and has cited case law (St. Regis Paper Co. v. Bemis Co. (549 F.2d 833, 193 USPQ 8)). The Examiner is proposing that the mere duplication of the working parts of a device involve only routine skill in the art, and has concluded that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to do so. The Applicant respectfully disagrees with the Examiner's application of MPEP §2144.04 and the decision in St. Regis Paper Co. v. Bemis Co.

Specifically, the Applicant asserts that Rejections based on 35 U.S.C. § 103(a) must be made on a factual basis. In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173,177-78 (CCPA 1967). More particularly, the Examiner has not made any factual basis to supply the admitted deficiencies of Powell Jr. as recited in Applicant's independent claim 1. The Applicant submits that the Examiner's reliance on MPEP

§2144.04 and the decision in St. Regis Paper Co. v. Bemis Co. to establish obviousness under § 103(a) is improper. See In re Ochiai, 71 F.3d 1565, 1570, 37 USPQ2d 1127, 1132 (Fed. Cir. 1995).

For the foregoing reasons, the Applicant believes that claim 1, along with its dependent claims, patentably distinguishes over Powell Jr. in view of Foster, in further view of judicial notice and MPEP §2144.04, and over Powell Jr. in view of Foster, in further view of judicial notice and MPEP §2144.04 and in further view of Berglund, and over Powell Jr. in view of Foster, in further view of judicial notice and MPEP §2144.04 and in further view of Bitner, and over Powell Jr. in view of Foster, in further view of judicial notice and MPEP §2144.04 and in further view of Schlotterer.

The Examiner has made similar assertions for the remaining independent claims 11, 55, 65, 90 and 102. The Applicant respectfully disagrees. Accordingly, Applicant submits that claims 11, 55, 65, 90 and 102, along with their respective dependent claims, patentably distinguish over Powell Jr. in view of Foster, in further view of judicial notice and MPEP §2144.04, and over Powell Jr. in view of Foster, in further view of judicial notice and MPEP §2144.04 and in further view of Berglund, and over Powell Jr. in view of Foster, in further view of judicial notice and MPEP §2144.04 and in further view of Bitner, and over Powell Jr. in view of Foster, in further view of judicial notice and MPEP §2144.04 and in further view of Schlotterer for at least the reasons given above.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-48300/BNK.

Respectfully submitted,

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